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U.S. DISTRICT COURT
DISTRICT OF MASS.

**UNITED STATE DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

Danny M. Kelly, pro se
26 School St.
Chelmsford, MA 01863

Plaintiff

Civil Action

Town of Chelmsford
50 Billerica Rd.
Chelmsford, MA 01824

Defendant

COMPLAINT

Participants

The Plaintiff is a resident of the Commonwealth of Massachusetts and a United States Citizen.

The Defendant, Town of Chelmsford, is a duly organized town within the United States.

Jurisdiction

Jurisdiction comes from request for equity and title 28 § 1331, per federal question. The cause is based upon Plaintiff's 5th Amendment rights made applicable by the 14th Amendment. The civil rights violations come from Title 42 § 1983.

THIS IS A CIVIL RIGHTS, 42 § 1983, CASE! Not an Eminent Domain case as the Court has claimed in the past based upon what the Town instructs the Court to say. Eminent Domain is the state law that was used to violate my Civil Rights. There is no argument over the public use and as such not a state issue. However, the Town has no right to use ownership when deciding on what property to take under Eminent Domain¹ and I should be entitled to be told why this does not violate my Civil Rights.

Background

The Fifth Amendment's Eminent Domain clause "*nor shall property be taken without just compensation*" protected the people from government abuses. It required just compensation to be paid to the owner of property in order for property to be taken².

The problem that the "Court" had with this was it did not provide an efficient means for the Court's Bentley driving friends to make personal profits off the taking of property from poor workers. Thus the Court "reinterpreted" the Eminent Domain clause to say that just compensation only had to be obtainable, not provided³.

This lead to Eminent Domain laws like M.G.L. ch 79. It allows property to be taken in 30 day with only an offer for the property. This offer does not have to be just or even reasonable. Basically it allows property to be stolen. It even

¹ Using ownership to decide who would be easier to cheat out of the property.

² The compensation had to be determined prior to the public use of the property.

goes on the F-track (5 years) in state court guaranteeing the property taken being free under the current money theory.

e.g., We were offered the equivalent of \$1,000 for our property. The utility lot across the street had a tax value of \$120,000 just for the land. The Town destroyed a \$250,000 lot at that time and only offered \$1,000 to compensate us⁴. I believe it is obvious the scam the Town is playing. They are entitled to cheat the workers and from the Town's documentation it is clear that was the Town's intension.

Why is this a Civil Rights case and not an Eminent Domain case?

It is so accepted that the Town has a right to cheat people under Eminent Domain that the Town took my property rather than the more appropriate property that was owned by Massachusetts Electric.

Any sort of evaluation of the taken property makes it clear that the property was not the most suitable for the public use it was intended for. The Town even documented that the Mass Electric's property had the shortest head. Therefore the property was not taken for the benefit of the public. It was taken from me because the Town knew they could cheat a worker, but not a large corporation that knew Eminent Domain law.

The Town's own records document this. Attachment 1, Page 2-15 § 2.4.5 of the Town of Chelmsford, Massachusetts SEWER COMMISSION, Preliminary

³ This is also the reason eminent domain cases that involve compensation require exhaustion of state remedies. You don't know that the real offer is until state remedies are exhausted.

⁴ We were even denied a low interest loan citing the pumping station as the reason.

Design Report Phase IVC Sewers, April 2000, documents the reason my property should be taken instead of the more appropriate property as *"it would be difficult and time consuming to acquire an easement on Massachusetts Electric property"*.

Massachusetts Electric property was the most appropriate property based upon the public use, it had the shortest head and fit the usage of the property.

There is no difference in the process of acquiring an easement from a large corporation than from an individual, as the Town records seem to claim. If this were true it would be a blatant violation of the Constitution since it would document that corporations have more rights to own property than workers. In reality it would be much easier for the Town to take Mass Electric's property if they intended on treating them fairly. They already know the process.

All that is really important is that who owned the property was the selection criteria used in the taking. This violates the basic concept of a person's right to own property as secured by the 5th Amendment. It has nothing to do with Eminent Domain. Basic logic makes it clear that if a person has a right to own property; it cannot be taken based upon who owns it. Eminent Domain does not override this basic right to own property. The State issues of Eminent Domain, public use and compensation, are moot to this civil rights violation. I have no argument that we needed sewers or that a pumping station was needed. I only believe that it should be placed in an appropriate location and not one based upon how much money a bunch of shysters can cheat a person out of.

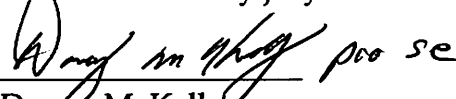
Statement of Facts

1. The Defendant took Plaintiff's property using state law.
2. The Defendant decision to take Plaintiff's property was based upon ownership.
3. The Defendant did not provide any compensation to Plaintiff for the property they took from Plaintiff.
4. The Defendant took advantage of Plaintiff's situation and denied Plaintiff his rights.
5. The Defendant has used its political influence to keep the Court from hearing the Civil rights case by claiming it is an Eminent Domain case.

Allegations

Plaintiff alleges that the Defendant has intentionally, willingly, wantonly and culpably misused Eminent Domain law to take property from Plaintiff based upon ownership rather than usage. Plaintiff is requesting declaratory, compensatory, emotional, and punitive damages in an amount to be determined by the Court.

The Plaintiff in the above-entitled cause demands a trial by jury.



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26 School St.
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1-978-251-8989